

### REMARKS

Claims 1 – 9 are pending in the application.

Claims 10-12 have been newly added. These claims are amply supported by the specification and original claims. No new matter is entered.

Acknowledgement as to the proper status of the claims in the Office Action Summary is respectfully requested. In addition, it is believed that the Office Action is non-final because no indication as to its finality is found in the detailed action. Since the Office Action Summary erroneously lists that the action is final, correction and confirmation are respectfully requested.

The independent claims have been amended to clarify that the backup control request includes a code and a number of said portable telephone set that are entered by a person having the number and code of said portable telephone set.

In an example embodiment, if a portable telephone set is lost, a person having the code and number may initiate the backup control request from another telephone in order to initiate the action. In this embodiment the backup control request is not initiated by or from the portable telephone set.

### REJECTIONS UNDER 35 U.S.C. 103

Claims 1 – 3, 5 and 6 are rejected under 35 U.S.C. 103 as being unpatentable over U.S. Patent 6,064,880 (Alanara) in view of U.S. Patent 5,706,330 (Bufferd et al.) and further in view of U.S. Patent 5,517,549 (Lee) or U.S. Patent 4,811,377 (Krolopp et al.) or U.S. Patent 4,630,314 (Smith).

Claim 4 is rejected under 35 U.S.C. 103 as being unpatentable over Alanara in view of Bufferd and further in view of Lee or Krolopp or Smith and further in view of U.S. Patent 5,915,225 (Mills).

Claims 7 and 8 are rejected under 35 U.S.C. 103 as being unpatentable over Alanara in view of Bufferd. Claim 9 is rejected under 35 U.S.C. 103 as being unpatentable over Alanara in view of Bufferd and further in view of U.S. Patent 6,157,708 (Gordon). Alternatively, claim 9 is rejected under 35 U.S.C. 103 as being unpatentable over Bufferd in view of Gordon.

Applicant respectfully traverses all of the rejections for at least the following reasons.

Alanara is directed to a mobile station data backup and restore operation. In particular, Alanara discloses the step of transmitting data from the mobile station in response to the user initiation and/or expiration of a timer (please see col. 4, lines 51- 53 of the patent). Clearly, Alanara teaches the use of the same mobile unit to initiate the backup operation or, alternatively, expiration of a timer in the mobile unit for periodic backup operations.

Nowhere does Alanara teach or suggest "backup control request, including a code and a number of said portable telephone set that are entered by the owner of said portable telephone set" as recited in Applicant's claim 1.

Once again, it is axiomatic that Alanara cannot possibly disclose this feature of the present invention because in Alanara there is no need to enter code and/or telephone number of the mobile unit: according to the patent disclosure, the mobile unit owner uses the very same mobile unit to start a backup operation such that no identification and/or authorization is required. According to Alanara, the backup operation is part of a routine maintenance procedure.

In contrast to the prior art reference, the code and the number of a portable telephone are used in the present claimed invention in order to identify the true authorized person, because the backup request is made from a telephone other than the owner's portable telephone.

Bufferd is relied upon only for the proposition of "requesting and transferring information wherein a maintenance unit can call by using a dialing unit to retrieve information" according to the Office Action. Even if, for the sake of argument, it is assumed that Bufferd does teach that feature, Bufferd still does not disclose any other element of Applicant's invention as recited in claim 1. For example: wherein a backup control request, including a code and a number of said portable telephone set that are entered by an authorized person having the code and the number. Thus, this patent fails to supplement Alanara to cure its deficiencies.

To further supplement Alanara and Bufferd, Lee or Krolopp or Smith is relied upon only for the proposition of "erasing the memory of the device, once data has been transferred or received" according to the Office Action. Even if, for the sake of argument, it is assumed that Lee or Krolopp or Smith does teach that feature, each of those references still does not disclose any other element of Applicant's invention as recited in claim 1. Thus, Lee or Krolopp or Smith fails to supplement the combination of Alanara and Bufferd to cure its deficiencies.

For the above reasons, it is believed that the combination of Alanara, Bufferd and Lee or Krolopp or Smith fails to render obvious the present invention as recited in claim 1. Withdrawal of the rejection is, therefore, respectfully requested.

As claim 2 depends from independent claim 1, Applicant submits that this dependent claim is also allowable for at least this reason and the additional features.

Independent claim 3 has been amended to include the above feature of the present invention, as discussed with reference to claim 1. Hence, Applicant essentially repeats the above arguments with respect to amended independent claim 3 to submit that it is not rendered obvious by the combination of Alanara, Bufferd, and Lee or Krolopp or Smith.

As dependent claims 5 and 6 each depend from allowable independent claim 3, Applicant submits that those dependent claims are also allowable for at least this reason and the additional features.

With respect to claim 4 which depends from independent claim 3, it is respectfully submitted that Mills is relied upon only for the proposition of "remotely retrieving SIM stored data over a communication link wherein the request can be made to the telephone even in a busy state" according to the Office Action. Even if, for the sake of argument, it is assumed that Mills does teach that feature, Mills still does not disclose any other element of Applicant's invention as recited in claim 3. Thus, this patent fails to supplement Alanara, Bufferd and Lee or Krolopp or Smith to cure their deficiencies.

Independent claims 7 and 8 have been amended to include the above feature of the present claimed invention, as discussed with reference to claim 1. Hence, Applicant essentially repeats the above arguments with respect to amended independent claims 7 and 8 to submit that those claims are not rendered obvious by the combination of Alanara and Bufferd.

With respect to independent claim 9, which has been amended to include the above feature of the present invention as discussed with reference to claim 1, it is respectfully submitted that Gordon is relied upon only for the proposition of "a telephone device which can respond to an incoming call and de-activate a ringing circuit" according to the Office Action. Even if, for the sake of argument, it is assumed that Gordon does teach that feature, Gordon still does not disclose any other element of Applicant's claimed invention as recited in claim 9. Thus, this patent fails to supplement Alanara and Bufferd, separately or in combination, to cure their deficiencies.


In light of the above, Applicant submits that Alanara, Bufferd, Lee, Krolopp, Smith and Gordon, whether separately or in combination, fail to render obvious the present invention as recited in claims 1 - 12. Favorable reconsideration of this case and early issuance of the Notice of Allowance are earnestly solicited.

### CONCLUSION

An earnest effort has been made to be fully responsive to the Examiner's communication. In view of the above amendments and remarks, it is believed that the present application is in condition for allowance. Passage of this application to allowance is earnestly solicited. However, if for any reason this application is not considered to be in condition for allowance, the Examiner is respectfully requested to telephone the undersigned attorney at the number listed below prior to issuing a further Action.

We respectfully request that all fees relating to this application be charged to Deposit Acct. No. 50-1290.

Respectfully submitted,

  
Brian S. Myers  
Reg. No. 46,947

CUSTOMER NUMBER 026304  
Telephone: (212) 940-8703  
Fax: (212) 940-8986 or 8987  
Docket No.: FUJ 17.041 (100794-11377)  
BSM:fd